

## Message Text

LIMITED OFFICIAL USE

PAGE 01 NEW DE 04939 301416Z  
ACTION NEA-10

INFO OCT-01 ISO-00 AID-05 CIAE-00 EB-08 FRB-03 INR-10  
NSAE-00 USIA-06 TRSE-00 XMB-02 OPIC-03 SP-02  
LAB-04 SIL-01 OMB-01 NSC-05 SS-15 STR-07 CEA-01  
L-03 HEW-04 OES-07 /098 W  
-----040194 301421Z /47

P R 301319Z MAR 78  
FM AMEMBASSY NEW DELHI  
TO SECSTATE WASHDC PRIORITY 561  
INFO USDOC WASHDC  
AMCONSUL BOMBAY  
AMCONSUL CALCUTTA  
AMCONSUL MADRAS

LIMITED OFFICIAL USE NEW DELHI 4939

E.O. 11652: N/A  
TAGS: EINV  
SUBJECT: GOI DRUG POLICY ISSUED

1. MINISTER PETROLEUM AND CHEMICALS BAHAGUNA TABLED LONG-AWAITED DRUG POLICY STATEMENT IN LOK SABHA DURING EVENING OF MARCH 29. STATEMENT, WHICH HAS REQUIRED OVER EIGHT MONTHS OF CONSIDERATION BY MINISTRY, A CABINET COMMITTEE AND FINALLY CABINET AS A WHOLE, IS DETAILED AND COMPLEX DOCUMENT 24 PAGES IN LENGTH WITH TWO ANNEXES.

2. OUR TENTATIVE AND PRELIMINARY APPRAISAL OF DRUG POLICY STATEMENT, WHICH WE HAVE JUST OBTAINED, IS THAT IT TAKES A FAIRLY MIDDLE PATH BETWEEN POSSIBLE COURSES OF ACTION OPEN TO GOI. POLICY WILL REQUIRE DILUTION OF FOREIGN EQUITY FORTHWITH TO 40 O/O IN CASE OF FOREIGN DRUG COMPANIES "ENGAGED ONLY IN MANUFACTURE OF FORMULATIONS OR BULK DRUGS NOT INVOLVING HIGH TECHNOLOGY OR BOTH", WITH ADDITIONAL PROVISOR THAT "66 O/O OF THE BALANCE EQUITY CURRENTLY IN HANDS OF  
LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 02 NEW DE 04939 301416Z

FOREIGN SHAREHOLDERS BE DISINVESTED IN FAVOR OF GOVERNMENT FINANCIAL OR PUBLIC SECTOR INSTITUTIONS AND THE REST IN FAVOR OF INDIAN INVESTORS, PREFERENCE IN THE LATTER CASE BEING GIVEN TO INDIAN EMPLOYEES OF SUCH COMPANIES". SIMILAR DISPOSAL OF "BALANCE EQUITY" IS PRESCRIBED FOR OTHER POSSIBLE EQUITY DILUTIONS OF DRUG FIRMS UNDER FERA GUIDELINES (I.E., IN CASE OF HIGH TECHNOLOGY FIRMS DILUTING TO 74 O/O)

OR ON EXPANSION.

3. IDENTIFICATION OF FOREIGN DRUG FIRMS ENGAGED IN MANUFACTURE OF "BULK DRUGS NOT INVOLVING HIGH TECHNOLOGY" WILL BE CARRIED OUT THROUGH HIGH LEVEL GOI COMMITTEE AT SECRETARY LEVEL.

4. ANOTHER SECTION OF POLICY STATEMENT DEALS IN DETAIL WITH REGULARIZATION OF PRESENT PRODUCTION CAPACITY, WHICH HAS BEEN A MAJOR CONCERN OF FOREIGN DRUG FIRMS. REGULARIZATION OF BULK DRUG PRODUCTION IN EXCESS OF LICENSED CAPACITY OR CAPACITY BASED ON COB LICENSES, PERMISSION LETTERS, REGISTRATION CERTIFICATES, NO OBJECTION CERTIFICATES, ETC. WILL BE BASED ON HIGHEST PRODUCTION ACTUALLY ACHIEVED IN ANY YEAR DURING THE THREE YEAR PERIOD ENDING MARCH 31, 1977. IF COMPANIES HAD EXPANDED BEYOND LICENSED CAPACITY OR DONE ANY OTHER ACTS IN VIOLATION OF THE CONDITIONS ATTACHED TO THE SPECIFIC INDUSTRIAL LICENSE OR OTHER AUTHORITY GRANTED TO THEM OR OF ANY OTHER LAWS WHETHER DURING THE PERIOD 1973-77 OR PRIOR TO THAT, ACTION MAY BE TAKEN AGAINST THEM ON THE SAME LINES AS APPLICABLE TO ALL COMPANIES IN OTHER SECTORS IN INDUSTRY WHICH MAY HAVE COMMITTED SIMILAR VIOLATIONS.

5. IN CASE OF FOREIGN DRUG COMPANIES, REGULARIZATION OF EXCESS PRODUCTION ON THE ABOVE CRITERION WILL BE DONE (A) LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 03 NEW DE 04939 301416Z

SUBJECT TO THEIR MAKING OVER TO NON-ASSOCIATED FORMULATORS 50 O/O OF THEIR TOTAL PRODUCTION OF SUCH BULK DRUGS (INCLUDING THAT REGULARIZED) AND (B) SUBJECT FURTHER TO THEIR RESTRICTING THE VALUE OF THEIR FORMULATIONS TO FIVE TIMES THE VALUE OF THEIR TOTAL BULK PRODUCTION.

6. WITH REGARD TO PRICING, NEW POLICY PROVIDES THAT POST-TAX RETURN ON BULK DRUGS REQUIRED FOR PRODUCTION OF ESSENTIAL AND LIFE SAVING DRUGS BE KEPT AT 14 O/O AND ON OTHER BULK DRUGS AT 12 O/O ON NET WORTH, I.E., EQUITY PLUS FREE RESERVES. PRICES OF ABOUT 100 BULK DRUGS, COST STRUCTURE OF WHICH HAS ALREADY BEEN STUDIED, WILL BE FROZEN, INITIALLY FOR ONE YEAR. COST STUDIES WILL BE MADE ON OTHER BULK DRUGS ON THE ABOVE CRITERION.

7. GENERIC NAME PROVISIONS OF POLICY ARE RELATIVELY MILD. BRAND NAMES WILL BE ABOLISHED IN FAVOR OF GENERIC NAMES WITH RESPECT TO FIVE DRUGS ONLY: ANALGIN, ASPIRIN, CHLORPROMAZINE, FERROUS SULFATE, AND PIPERAZINE.

8. SEVERAL OTHER ASPECTS OF DRUG INDUSTRY, INCLUDING RESEARCH AND DEVELOPMENT AND QUALITY CONTROL, ARE ALSO

DEALT WITH IN DRUG POLICY BUT APPEAR TO BE OF LESS CRUCIAL IMPORTANCE TO FOREIGN DRUG FIRMS. PRELIMINARY CONCERN OF DRUG FIRM REPS WITH WHOM EMBASSY AND CONGEN BOMBAY HAVE SPOKEN, APPEARS CENTERED ON TAKE-OVER BY GOI FINANCIAL AND PUBLIC SECTOR INSTITUTIONS OF TWO-THIRDS OF THE BALANCE EQUITY TO BE DIVESTED AND TO THE PREFERENCE TO BE SHOWN TO INDIAN EMPLOYEES OF DRUG FIRMS IN DISPOSAL OF REMAINING ONE-THIRD OF BALANCE EQUITY. ONE DRUG REP REMARKED THAT SUCH DISPOSAL OF EQUITY WAS "TANTAMOUNT TO BACKDOOR TAKEOVER OF DRUG FIRMS" WHILE ANOTHER BELIEVED THAT THIS PROVISION WOULD EITHER REDUCE OR TAKE AWAY CONTROL OF FOREIGN FIRMS FROM PRESENT MANAGEMENT. ALL DRUG FIRM REPS ALSO FOUND HIGHLY REPUGNANT THE PROVISION THAT EXCESS PRODUCTION COULD ONLY BE REGULARIZED LIMITED OFFICIAL USE

LIMITED OFFICIAL USE

PAGE 04 NEW DE 04939 301416Z

BY PROVIDING HALF OF EXCESS TO BUSINESS COMPETITORS, AND THE RESTRICTION OF FORMULATION TO FIVE TIMES THE VALUE OF THEIR TOTAL BULK PRODUCTION.

9. EMBASSY COMMENT: DRUG POLICY AS FINALLY ISSUED DOES NOT APPEAR TO BE AS STRINGENT AS SOME NEWSPAPER LEAKS HAD REPORTED IT WOULD BE OVER LAST SEVERAL WEEKS. HOWEVER, POLICY CONCERNING EQUITY DILUTION TO GOI FINANCIAL OR PUBLIC SECTOR INSTITUTIONS IS CONSIDERABLY LESS FAVORABLE TO FOREIGN DRUG FIRMS THAN ARE GENERAL FERA DILUTION GUIDELINES FOR OTHER FOREIGN FIRMS IN INDIA. ACTUAL EFFECT OF EQUITY DILUTION PROCEDURES FOR DRUG FIRMS WOULD SEEM TO DEPEND TO SOME EXTENT ON WHICH GOI INSTITUTIONS TAKE OVER "BALANCE EQUITY" AND MANNER IN WHICH THESE EQUITY RIGHTS ARE EXERCISED BY THOSE INSTITUTIONS. WE DO NOT BELIEVE, HOWEVER, THAT THERE IS ANY ROOM FOR "GIVE" IN GOI POLICY AND THAT IT WILL STAND AS NOW TABLED. CLEARLY, SOME CABINET MEMBERS WOULD HAVE TAKEN MORE ADVERSE MEASURES AGAINST FOREIGN DRUG FIRMS THAN WERE INCLUDED IN FINAL POLICY, WHICH HAS NOT DOUBT ACCOUNTED FOR GREAT DELAY IN PRODUCTION OF FINAL POLICY PAPER. EMBASSY HAS POUCHED COMPLETE COPY DRUG POLICY STATEMENT TO NEA/INS AND WILL TRANSMIT FURTHER ANALYSIS AND COMMENTS ON DRUG POLICY AS WE SPEAK WITH INTERESTED PARTIES HERE. GOHEEN

LIMITED OFFICIAL USE

NNN



## Message Attributes

**Automatic Decaptioning:** Z  
**Capture Date:** 01 jan 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** DRUGS, POLICIES, IMPORT CONTROLS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 30 mar 1978  
**Decaption Date:** 20 Mar 2014  
**Decaption Note:** 25 YEAR REVIEW  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 20 Mar 2014  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1978NEWDE04939  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
**Film Number:** D780138-0269  
**Format:** TEL  
**From:** NEW DELHI  
**Handling Restrictions:**  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1978/newtext/t1978039/aaaaagwa.tel  
**Line Count:** 161  
**Litigation Code IDs:**  
**Litigation Codes:**  
**Litigation History:**  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Message ID:** bcd40fcb-c288-dd11-92da-001cc4696bcc  
**Office:** ACTION NEA  
**Original Classification:** LIMITED OFFICIAL USE  
**Original Handling Restrictions:** ONLY  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 3  
**Previous Channel Indicators:** n/a  
**Previous Classification:** LIMITED OFFICIAL USE  
**Previous Handling Restrictions:** ONLY  
**Reference:** n/a  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 05 may 2005  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** N/A  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 3393068  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** GOI DRUG POLICY ISSUED  
**TAGS:** EINV, ETRD, IN  
**To:** STATE  
**Type:** TE  
**vdkgvwkey:** odbs://SAS/SAS.dbo.SAS\_Docs/bcd40fcb-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Sheryl P. Walter  
Declassified/Released  
US Department of State  
EO Systematic Review  
20 Mar 2014  
**Markings:** Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014